

1 A. I don't remember the exact date, but I can tell
 2 you what was replaced and why.
 3 Q. Well, I think in some of the documents here that
 4 I've seen, they give a date of 1998 that, I believe --
 5 A. I would assume that would be a correct date, but
 6 what dates I do not really know.
 7 Q. Do you remember how many of the windows were
 8 replaced?
 9 A. I can remember we had the supplier come up to look
 10 at one cracked window, one broken window, which was a
 11 custom, and one cracked exterior frame. But we also had
 12 some issues with some of the wood cladding on the window
 13 panes, and I don't remember if they were all replaced at the
 14 same time or if it was two trips, I don't remember.
 15 Q. When you talk about the supplier, do you mean
 16 Bennett?
 17 A. Bennett Supply, yes.
 18 Q. And you did not purchase the windows from Bennett
 19 did you?
 20 A. No. I do believe they were the supplier to Loc.
 21 Q. Do you remember who from Bennett Supply came to
 22 your home?
 23 A. I don't remember the gentleman's name.
 24 Q. Did you call them to take a look at these?
 25 A. Actually, we called Loc and probably was referred

1 13 panes that Bennett replaced were all identical sizes.
 2 Q. And those were separate from the broken ones?
 3 A. I do believe, because I currently own 10 of the 13
 4 replaced windows. They took three and left me with the
 5 other 10.
 6 Q. And none of the ones you have are broken?
 7 A. No. And they're not custom, the ones that I have.
 8 Q. Just so I'm clear, you said one of the windows was
 9 a cracked window, one was broken and that was a custom, and
 10 one had a cracked exterior frame.
 11 A. Correct.
 12 Q. So those three are separate from the 13?
 13 A. That's to my understanding. I'm going to assume
 14 that because that doesn't sound right. The ones that were
 15 replaced -- the 13 that were replaced were due to the wood
 16 issue.
 17 Q. And you said that wood issue involved the cladding
 18 on the window panes.
 19 A. Correct.
 20 Q. What was the problem with that?
 21 A. The one seemed punky, I don't know how you would
 22 describe it.
 23 Q. You've got to tell me what you mean by that.
 24 A. I mean soft.
 25 Q. What part of the wood or what area of the wood?

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1 to Bennett Supply from Loc.
 2 Q. Do you know how many windows were replaced in
 3 1998?
 4 A. Like I said, I don't remember if this was two
 5 visits where they replaced those three, or they did them all
 6 at the same time and they replaced 13 windows in the house.
 7 Q. And that's what you had indicated in a pleading
 8 that was filed, that Bennett Supply replaced 13 windows in
 9 1998; does that sound right?
 10 A. Yes.
 11 Q. Do you know where those windows came from that
 12 were replaced? Were they all on the first floor or did any
 13 involve the basement?
 14 A. First floor, that I do know. None of the basement
 15 windows have ever been replaced.
 16 Q. And of the windows that were replaced in 1998, how
 17 many were of the custom-type in or around the fireplace?
 18 A. Two.
 19 Q. You said --
 20 A. Like I said, I don't remember for sure. The 13
 21 panes that were replaced were all of the same size, that I
 22 know. So it must have been -- we must have had them out
 23 there twice because the broken ones, frame and the two
 24 broken panes, must have been replaced at a different time.
 25 That, I don't remember exactly because I know the

1 A. The cladding. There's a wood cladding around the
 2 inside of the window panes.
 3 Q. All around the window or just on certain areas?
 4 A. All around the window, the whole exterior
 5 framework of the pane.
 6 Q. So the 13 that were replaced, that was the issue,
 7 the wood cladding was soft in the way you described it.
 8 A. Yeah. I don't know a better way of describing
 9 that other than soft. I don't know for -- I really don't.
 10 Q. Were any of the 13 windows that were replaced, did
 11 you have any problems with water condensation or water on
 12 the inside of the windows?
 13 A. We have had water condensation from the word go.
 14 Q. I'm being specific to the 13 that were replaced in
 15 1998.
 16 A. As far as condensation on the windows, yes, we had
 17 condensation on the windows on those 13 panes, as well as
 18 the rest of the house.
 19 Q. The particular reason why they were replaced was
 20 the wood cladding though.
 21 A. Yes.
 22 Q. Now, when they were replaced, what were they
 23 replaced with?
 24 A. Assuming, Marvin Integrity window panes.
 25 Q. Do you have any bill of lading or other

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1 documentation -- let me finish -- as far as what windows
 2 replaced the 13 that were removed in 1998?
 3 A. I do believe not. I'm guessing on that one, I do
 4 believe not.
 5 Q. Who installed the 13 new windows in 1998?
 6 A. It would have been representatives of Bennett
 7 Supply.
 8 Q. Were you involved in that installation?
 9 A. No. I wasn't even home as a matter of fact.
 10 Q. Do you know how the windows were installed?
 11 A. No, I don't. I wasn't at home.
 12 Q. Did you perform any caulking or foam sealant to
 13 any of the windows installed in 1998?
 14 A. No.
 15 Q. Did you stain or seal any of those windows?
 16 A. Yes.
 17 Q. When did you do that?
 18 A. 1998.
 19 Q. Approximately, how long after they were installed?
 20 A. I don't remember. Probably, shortly thereafter.
 21 Q. Did you use the same products and same process as
 22 you did initially?
 23 A. Yes.
 24 Q. Since the installation of the replacement windows
 25 in 1998, have you had any problems with those?

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1 windows.
 2 A. Yes.
 3 Q. Have you had anyone perform any testing or
 4 evaluation of those windows for any reason since they've
 5 been removed?
 6 A. Other than a general contractor, who is a friend
 7 of mine, we took one apart to see how it was put together.
 8 Other than that, no.
 9 Q. And who was that friend that helped you with that?
 10 A. Dwayne Davis, from Davis Construction.
 11 Q. Were you present when that window was taken apart?
 12 A. Yes.
 13 Q. What were the findings or what did you observe or
 14 identify?
 15 A. We -- just to see how it was put together.
 16 Actually, it was a brand-new pane that we took apart, gray
 17 in color.
 18 Q. Did you find anything about the pane that led you
 19 to conclusions as to why there may have been water or
 20 condensation or softness in the wood?
 21 A. I am not a window manufacturer, so I cannot speak
 22 to that. We just took it apart to see how it was put
 23 together.
 24 Q. Do you recall if Mr. Davis made any conclusions or
 25 made any statements to you about that?

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1 A. Yes.
 2 Q. What are the problems that you've had with the
 3 replacement windows in '98?
 4 A. Condensation and ice formation.
 5 Q. Same problems that you had with the original
 6 windows?
 7 A. Correct.
 8 Q. Has that occurred on all 13 of the windows that
 9 were replaced?
 10 A. Yes, as well as the rest of the windows in the
 11 house.
 12 Q. Other than the windows that were replaced in 1998,
 13 have you had any other windows or the French doors replaced?
 14 A. Not to my knowledge. I don't remember for sure,
 15 but I'm pretty sure not.
 16 Q. When the windows were replaced in 1998, did you or
 17 your wife have any contact with anyone from Marvin about
 18 those windows?
 19 A. I do not remember. My wife would be the person to
 20 ask that, she's the more date-and-time type person.
 21 Q. Who paid for the cost of the replacement of the 13
 22 windows in '98?
 23 A. We didn't, that's all I know. As far as who
 24 absorbed the cost, Bennett or Loc or Marvin, I don't know.
 25 Q. You said you've stored or kept 10 of those

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1 A. We had a few discussions and he was going to check
 2 his resources and whatnot, and he has since produced a
 3 letter that you folks have a copy of.
 4 Q. Did you have any other discussions with him about
 5 that inspection or that examination of the windows other
 6 than what might be in the letter?
 7 A. No.
 8 Q. Has anyone, besides Mr. Davis, examined any of
 9 those windows that you've stored?
 10 A. No.
 11 Q. Now, as far as communication with anyone at
 12 Marvin, would that be something that your wife would have
 13 done?
 14 A. Yes -- well, we both would have done it, but
 15 she'll have the better records and knowledge thereof. To
 16 ask me, I'm going to end up telling you I don't remember.
 17 (Glover Deposition Exhibit No. 2 marked for
 18 identification.)
 19 Q. I'm going to show you some photographs that we'll
 20 mark as Exhibit No. 2, and these were copies of items
 21 provided by your counsel. I'm just going to ask you to take
 22 a look at those and see if you can identify those for us.
 23 A. (Witness complies.) They are poor black-and-white
 24 photocopies of photos that we have taken of our windows.
 25 Q. Do you know when those were taken?

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1 A. Some of them are dated. Exact dates, I don't
 2 remember other than the ones that are dated; 3/27/02,
 3 1/21/03, 3/3/03 -- I mean some of the photos are actually
 4 dated. The other ones, I don't see a date on them and I
 5 don't remember exactly which day.
 6 Q. Generally, what do those photos show?
 7 A. The buildup of condensation around the interior
 8 parameter of each window pane -- of window panes, I should
 9 say, the Marvin panes, except for the last page of five.
 10 Q. What does that last page show?
 11 A. That actually shows, we had an ice storm, the ice
 12 that is on the window glass is actually on the outside of
 13 the glass. And notice that there was a void between the ice
 14 that is on the glass and the outside of the frame where the
 15 glass -- there's no ice on it, a.e. (sic) it is not stuck
 16 there because of either a warm edge, I would assume. I
 17 would know because I measured it.
 18 And there is -- obviously, you can't see the ice
 19 on the outside of the building, except for the siding. It's
 20 just a way of identifying that there's heat coming -- going
 21 out of the building through the parameter of the window
 22 frames.
 23 Q. Do you have those originals?
 24 A. Do we have the originals, yes.
 25 MR. HABAS: Do you have those, Bryan?

1 Okay, there we go.
 2 Q. So these photographs would appear to reflect a
 3 condition that existed on one or more windows on March 27,
 4 2002?
 5 A. And 3/3/03.
 6 Q. And March 3rd of '03, correct?
 7 A. Correct.
 8 Q. And what you're saying they depict are
 9 condensation on the inside of the window?
 10 A. Condensation and -- well, yeah. For 3/27/02, I
 11 would say condensation and ice formation as well. You can
 12 see the ice there in the corner. You can see the ice there
 13 in the corner.
 14 Q. Would that condensation and ice be on the inside
 15 of the window or the outside?
 16 A. The inside of the window. This is the inside of
 17 the home.
 18 Q. Do you know if this is one window or other -- more
 19 than one window?
 20 A. I would have to assume more than one window.
 21 That's actually -- which windows they are exactly, I do not
 22 know.
 23 Q. Let's go to the next set of photographs, which
 24 would correspond to the third page of the exhibit, dated
 25 11/25/03 and one on 3/3/03.

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1 MR. FIFE: Are those them?
 2 A. Yes. That would be the last page.
 3 Q. All right.
 4 A. And that's not one. That's the one -- see how
 5 that lines up to that one.
 6 Q. Yes. And before we go any further, the first
 7 three photographs that you provided to me correspond to the
 8 last page of this exhibit; would that be correct?
 9 A. Yes.
 10 Q. And these show ice on the exterior of a part of a
 11 window, correct?
 12 A. Yes. The photograph was actually taken from the
 13 inside of the house.
 14 Q. And that would be true of all these, I take it?
 15 A. No, because the next set shows the condensation
 16 and ice formation on the inside of the parameter of the
 17 glass.
 18 Q. But these photographs were taken from the inside
 19 as well?
 20 A. Yes.
 21 Q. And the next three you've shown me correspond to
 22 the fourth page of the exhibit; would you agree?
 23 A. I would agree because that's -- there you got a --
 24 poor copy, 3/27/02. And I don't know if there's a date on
 25 that one or not, but it would be right there, the same.

1 A. Okay, there's that one -- well, maybe.
 2 Q. Again, it appears to show condensation on the
 3 inside of the window; would that be accurate?
 4 A. Condensation and ice formation, 11/25/03 -- nope,
 5 that one -- that one --
 6 Q. Well, let me just speak generally, the rest of
 7 these photographs taken on various dates show condensation
 8 on the inside of windows; is that you're saying?
 9 A. Condensation and ice formation on the inside of
 10 the windows.
 11 Q. On certain of them?
 12 A. Various windows throughout the house.
 13 Q. Were these pictures taken by you or your wife?
 14 A. Yes. Probably both of us at one point or the
 15 other. One of -- these are various pictures, we have -- I
 16 do believe we have more of them.
 17 Q. Do you have negatives of these?
 18 A. Yes. We have them.
 19 Q. All right. I'll give those back to you. As long
 20 as we're talking about photographs, do you have any other
 21 photographs, other than what you've provided to us, showing
 22 the condition of the windows that you're complaining about?
 23 A. Yes.
 24 Q. And your wife has given to your attorney some
 25 additional photographs that she identified, and I ask you to

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1 take a look at those and tell us what they depict.
 2 A. Condensation -- these ones here are just
 3 condensation on the inside of the glass.
 4 Q. What are the dates?
 5 A. Let's see here, I have two at 11/4/04, one at
 6 4/25/05.
 7 Q. Other than these additional photographs, are you
 8 aware of any other photographs that you've obtained of the
 9 condition of the windows?
 10 A. Not off the top of my knowledge (sic).
 11 Q. Let me --
 12 A. I imagine we have more photos somewhere within the
 13 house.
 14 Q. Let me ask you about the photos that you have in
 15 this binder; can you identify what they involve.
 16 A. This is a heat loss inspection done by Absolute
 17 Infrared Inspection Services. It's basically an infrared
 18 scan of the home for heat loss. We had it done for a
 19 two-fold purpose, one to show me any warm or cold spots in
 20 the house -- actually, cold spots because it was done the
 21 first part of the year. And where heat loss is in house,
 22 a.e. windows --
 23 Q. When was this done?
 24 A. -- and doors. This is dated 1/29/05.
 25 Q. Do you remember the person who performed this

1 A. I do not, but I think it was actually written on
 2 the pages.
 3 Q. It's not, that's why I was asking.
 4 A. Indoor/exterior.
 5 Q. All right.
 6 A. I do believe it's on every one of them. I
 7 wouldn't be able to swear to it.
 8 Q. All right.
 9 A. And there's a -- I wouldn't try copying those
 10 unless you've got a color copier. I don't think the black
 11 and white would do you any good.
 12 Q. Okay. Other than this inspection that was
 13 performed on January 29, 2005, have you had any other
 14 infrared inspections of your home?
 15 A. No.
 16 Q. You said the purpose was to identify warm or cold
 17 spots in the home, as well as heat loss, correct?
 18 A. Yeah, where you're losing your heat. Yeah, trying
 19 to save a nickel where we can.
 20 Q. Other than those reasons, do you have any other
 21 reasons why this inspection was done?
 22 A. Just to confirm or deny whether we were losing our
 23 heat.
 24 Q. What conclusions do you understand were reached
 25 from that inspection?

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1 inspection?
 2 A. I don't remember his name, but his name should be
 3 on here, Craig Kesler.
 4 Q. And where is Absolute Infrared Inspections
 5 located?
 6 A. In Erie. He has a P.O. box here on his -- we have
 7 the bill of lading, of course.
 8 Q. Let me take a look at that.
 9 A. Sure.
 10 Q. Other than the photographs, did this inspection
 11 provide you with any written description of the findings or
 12 narrative explaining the reasons for the conditions that
 13 were identified?
 14 A. There is a comment area on the bottom of each one
 15 of the pages, it just identified what he noticed, not what's
 16 causing condensation or ice formation. I do not believe --
 17 I think it's just what he noted, you know, hot spot or a
 18 cold spot.
 19 Q. Was there any significance of the day that was
 20 chosen for this inspection in terms of temperature or
 21 conditions?
 22 A. Temperature, extreme -- or more extremes between
 23 inside and outside of the dwelling.
 24 Q. Do you recall what the outside temperature was
 25 around the time that these photographs were taken?

1 A. To me, obviously, the major heat loss of the
 2 building is the exterior windows and doors.
 3 Q. Do you know if Mr. Kesler gave you any conclusions
 4 from his evaluation?
 5 A. Just what's documented right here.
 6 Q. Since that inspection, have you done anything in
 7 terms of heat loss in order to address those issues?
 8 A. Not to date, no, I have not. That's later on in
 9 the summer work.
 10 Q. What kind of work do you anticipate doing?
 11 A. Just some re-insulation in some of the ceilings
 12 where I've had some minor heat loss -- investigation,
 13 basically.
 14 Q. What do you mean?
 15 A. Obviously, the addition of different windows and
 16 doors to the structure.
 17 Q. Do you know offhand what your average monthly
 18 heating bills are during the course of the year?
 19 A. Approximately, 298 gallons of propane per year.
 20 As far as monetary value -- or per month, I should say.
 21 Sorry, per month throughout the winter. As far as monetary
 22 value for propane, the price changes hourly, basically.
 23 Q. Has that been your monthly average since you moved
 24 in the home in '96?
 25 A. Wintertime average, yes.

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1 Q. When you say "wintertime", what months are you
2 encompassing? In Erie, we know that's a long winter, but
3 can you give me an idea of what you're referring to.
4 A. October through April, approximately.
5 Q. Would you have recorded anywhere the actual
6 amounts per month over that period of time?
7 A. Other than the checkbook, I don't know if we ever
8 kept any of the bill of ladings from the propane companies
9 or not.
10 Q. Who's your propane supplier?
11 A. Currently, it is Ferrell Gas.
12 Q. How about dating back to '96 or '97 when you moved
13 in?
14 A. That was Propane Sales in Albion.
15 Q. Are they still in business?
16 A. Oh, yeah.
17 Q. Any other suppliers over that period of time?
18 A. No, not to my best knowledge.
19 Q. Has any work been performed on the windows, other
20 than the replacements that you identified in 1998, to
21 address any of the issues that you've made?
22 A. Other than the wife and I cleaning them constantly
23 all winter long to try to keep the condensation and mold
24 from building up.
25 Q. What do you do to clean the windows?

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1 windows and the woodwork.
2 Q. How often do you do that in the winter months?
3 A. How often do we do that, we kind of gave up. We
4 were doing it two to three times daily to try to keep up
5 with it.
6 Q. All windows or just certain windows?
7 A. All windows.
8 Q. What happened when you gave up on that?
9 A. The condensation continued to build up, just like
10 it was doing before.
11 Q. When did you give up on the efforts to --
12 A. I don't remember the exact date.
13 Q. The last couple of years or --
14 A. Probably the last year.
15 Q. Has any warrantee work been done on any of the
16 windows or doors?
17 A. Other than what's been stated through Bennett
18 Supply.
19 Q. The photographs that we've looked at today, appear
20 to all be of windows; do you have any photographs of
21 condensation on the French doors?
22 A. Not to my knowledge. I can't say that we do or we
23 do not, I don't know of any off the top of my head.
24 MR. HABAS: Bryan, have you seen any of the doors?
25 MR. FIFE: No.

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1 A. Windex, paper towels, of course, you remove the
2 screen to get to the window. The screens are just pin-style
3 you just set in place.
4 Q. Do you remove the screens for the winter months?
5 A. Yes.
6 Q. So during the winter months you don't have a
7 screen?
8 A. Correct.
9 Q. And to clean them you use Windex and paper towels?
10 A. Correct.
11 Q. Anything else that you use in terms of maintenance
12 of the windows?
13 A. Well, we haven't had to do any maintenance to the
14 windows, other than cleaning them.
15 Q. Have you had to apply any other products to the
16 wood framing of the windows?
17 A. No. We have painted the hardware because she
18 didn't like the color.
19 Q. You haven't painted any of the woodwork?
20 A. No.
21 Q. Have you had to restrain or reseal any of the wood
22 on the windows?
23 A. We should have, but we did not as far as I'm
24 concerned. It should be a one-time application as far as
25 most people are concerned, the constant wiping of the

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1 Q. Have you had the same problems with the doors as
2 with the windows?
3 A. Yes.
4 Q. That exact same problems?
5 A. Yes.
6 Q. Same location of the condensation?
7 A. Yes. Around the parameter of each pane of glass.
8 Q. Obviously, the French doors are a bigger size than
9 some of these windows, correct?
10 A. Yeah. Some of the windows vary in size from 18x20
11 to 6-foot by 5 1/2.
12 Q. When you talk about condensation on these windows,
13 are they on every single window?
14 A. Correct.
15 Q. And on both of the sets of French doors?
16 A. Correct.
17 Q. They run the entire parameter of the glass?
18 A. The glass panes.
19 Q. All of them?
20 A. All of them, every pane.
21 Q. Is it around the entire parameter of the pane or
22 just the bottom?
23 A. Around the entire parameter of the pane.
24 Q. How wide does that condensation look on these
25 windows?

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1 A. It varies.
 2 Q. Does it cover the entire glass at all?
 3 A. No. It never covers the entire glass.
 4 Q. You're talking just around the parameter of the
 5 glass.
 6 A. Correct.
 7 Q. And from the photographs, it looks like it could
 8 be anywhere from a quarter-inch wide to maybe up to
 9 two inches; is that a fair assessment?
 10 A. I would say fair.
 11 Q. I'm not holding you to that, but just to get a
 12 general characterization of the condensation, location, and
 13 size; would that be about accurate?
 14 A. I would say that.
 15 Q. Other than the condensation problem that you've
 16 identified with the windows, have you had any other problems
 17 with these Marvin windows?
 18 A. Other than stated once before, via (sic) a broken
 19 window and a cracked window pane and the exterior frame on
 20 the one, that must have -- that had to be a second trip --
 21 first or second trip from those folks, because those were
 22 changed -- I don't remember if those were changed at the
 23 same time or a different time, those 13 were changed.
 24 Other than that, as far as mechanical workings of
 25 the windows and stuff like, we haven't had any problems.

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1 A. As far as I understood, home under construction
 2 and temporary heat.
 3 Q. That's what you thought initially?
 4 A. Yeah. So I didn't really pay that much attention
 5 to it and just keep them dry and kept them wiped down. And
 6 kept them dry so they wouldn't damage any of the woodwork,
 7 and got the sealant on them, as far as sealing the wood. As
 8 far as finishing them, we did that later.
 9 Q. So the first winter, winter of '96/'97, the home
 10 was still under construction.
 11 A. Correct.
 12 Q. And I think you said earlier that the construction
 13 would have been finished sometime in 1997.
 14 A. I do believe it was like late summer or so. The
 15 exact date, I don't remember.
 16 Q. During the spring and summer of '97, did you
 17 notice any condensation on the windows?
 18 A. No. Summertime, there is usually no issue.
 19 Q. This is typically a winter phenomenon.
 20 A. Correct -- shall we say heating season; how does
 21 that sound?
 22 Q. Moving into your first winter occupying the home
 23 after it was finished -- that would be '97/'98?
 24 A. Correct.
 25 Q. Did you notice condensation on the windows at that

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1 Q. The windows have opened and opened properly?
 2 A. Yes.
 3 Q. Screens have worked effectively?
 4 A. Very good.
 5 Q. Other than the maintenance that you described of
 6 using paper towels and Windex, have you done any other
 7 maintenance to the windows or the frames?
 8 A. No.
 9 Q. Have you recaulked any of them?
 10 A. No.
 11 Q. Let me just ask you some questions about the
 12 condensation issue, itself: When did you first notice any
 13 condensation on these windows?
 14 A. I don't remember the exact day or month, but
 15 approximately '96.
 16 Q. How long after they were installed?
 17 A. Within a couple of months.
 18 Q. We know from some of the documents that they would
 19 have been installed in or about October of 1996.
 20 A. Correct.
 21 Q. So using that time frame, can you tell us when you
 22 would have first noticed condensation?
 23 A. The end of '96, December or so.
 24 Q. Did there seem to be any certain conditions that
 25 would create this condensation, as far as you understood?

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1 time?
 2 A. Yes.
 3 Q. Did that start with the heating season?
 4 A. Approximately, thereabouts.
 5 Q. Would there be any particular weather conditions
 6 or temperatures outside that seemed to correlate with
 7 condensation on the windows?
 8 A. Didn't really keep track of it.
 9 Q. In your mind looking back --
 10 A. Temperature extremes. What temperature, I have no
 11 idea.
 12 Q. When you say "temperature extremes", do you mean
 13 below freezing or below zero or any particular range?
 14 A. Just cold outside and running the heater inside.
 15 Q. Did you or your wife keep track of any of these
 16 conditions by log or diary or anything like that?
 17 A. No. We figured a new home -- you know, the winter
 18 of '97, a new home, paint drying, and whatnot.
 19 Q. Did you notice any condensation on the outside of
 20 windows?
 21 A. Really haven't, but we never really checked.
 22 Q. Did you notice condensation between the window
 23 panes?
 24 A. No. There is no condensation between the window
 25 panes as far as I know to this date. They are still

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1 sealed -- the glass is still sealed.
 2 Q. Now, since you moved in your home, have you used
 3 any humidifiers in the home?
 4 A. No.
 5 Q. Have you kept water in a bathtub or in pans in the
 6 home to provide humidity during the winter months?
 7 A. No.
 8 Q. Have you used any dehumidifiers in the home since
 9 you moved in?
 10 A. Yes.
 11 Q. Can you tell me about those.
 12 A. We have one running in the basement. Exact size,
 13 probably six quart, I won't swear to that exactly. And we
 14 are also running -- currently running a -- and that was
 15 installed when the furnace was installed, what they call and
 16 air-to-air heat exchanger unit.
 17 Q. Other than those units, do you have any other
 18 dehumidifying systems in the house?
 19 A. Central air conditioning for summer. I mean,
 20 that's part of air conditioning is dehumidification.
 21 Q. Do you keep the dehumidifier in the basement
 22 running year-round?
 23 A. Yes.
 24 Q. Do you know what setting it's on?
 25 A. It doesn't have any relative humidity percentile,

1 Q. Have you used any dehumidifiers within the
 2 upstairs of the home other than the air-to-air exchange?
 3 A. No.
 4 Q. And how does the air-to-air exchange act to
 5 dehumidify the home?
 6 A. With cooler temperatures outside, a.e. wintertime,
 7 I don't know if you're familiar with properties of relative
 8 humidity or not, when you take air in from the outside let's
 9 say at about 20-degree outside air temperature to 30-percent
 10 humidity -- the numbers aren't going to be exact because I
 11 don't know them exactly.
 12 Q. Sure, you're just using an example.
 13 A. And you heat that air up to 70 degrees, you have
 14 not added any water content to it, but you've expanded the
 15 dry bulb temperature, the humidity drops down by quite a
 16 bit.
 17 I'm bringing that into the house, I'm taking air
 18 that is in the house and venting it to the outside, and when
 19 the two air streams pass, they exchange temperature, not
 20 humidity.
 21 Q. Now, you have showers in your home, correct?
 22 A. Correct.
 23 Q. Do you vent the bathrooms outside?
 24 A. Yes.
 25 Q. How do you do that?

65

67

1 it's just --
 2 Q. Can you adjust it to low, medium, or high in terms
 3 of how frequently or how continuously --
 4 A. There's a span, but I don't remember exactly what
 5 the bottom or top is, you know, minimum or maximum.
 6 Q. Do you have to empty it or it's self-empty?
 7 A. Self-empty.
 8 Q. Into a drain of some type?
 9 A. Yes.
 10 Q. Do you know about how much water is emptied in the
 11 course of a given day or a period of time?
 12 A. I have no clue. I have never really measured it.
 13 It's not a lot, but my idea of not a lot and somebody
 14 else's, I don't know.
 15 Q. What's your basis for saying not a lot?
 16 A. It runs very infrequently. And when it does run,
 17 there's not really a whole lot of -- you can't hear it
 18 dripping a whole lot.
 19 Q. Does it continuously run or does it go on and off?
 20 A. It goes on and off in cycles.
 21 Q. You don't know how often it's on versus off?
 22 A. No clue. I don't pay any attention to it.
 23 Q. Have you had to replace a basement dehumidifier
 24 since you've owned the home?
 25 A. No. It's still the same one.

1 A. Via a ceiling exhaust fan and terminated below the
 2 soffit on the east side of home.
 3 Q. Is that for all of the showers?
 4 A. Yes. Two, to be exact.
 5 Q. How about in the kitchen, do you have any vents
 6 for moisture for cooking in the kitchen?
 7 A. No. We have a charcoal filter for the stove,
 8 that's it. It's vented in the house. And the dryer is
 9 vented to the outside, same with the furnace.
 10 Q. Do you have a fireplace?
 11 A. Yes.
 12 Q. What type?
 13 A. It's actually a Superior insert, it's a below zero
 14 clearance insert.
 15 Q. Is that for wood burning?
 16 A. Yeah. It can be either for wood or gas, it is set
 17 up for wood.
 18 Q. Do you run a fire during the winter months?
 19 A. Off and on, no rhyme or reason.
 20 Q. How much wood do you go through in a winter; any
 21 idea?
 22 A. A cord, if I'm lucky.
 23 Q. Any other sources of moisture in your home that
 24 you can think of?
 25 A. No. We have aquariums -- a 10-gallon aquarium, I

66

68

1 should say. And houseplants, critters, guinea pigs, dogs,
 2 cats.
 3 Q. Is your basement finished?
 4 A. No. Currently it is not.
 5 Q. Have you sealed the block?
 6 A. Yes.
 7 Q. When did you do that?
 8 A. The entire basement was parched and pressure
 9 sealed at the time of construction in '96. It was done by
 10 Young's Pressure Seal. Has a French drain in it.
 11 Q. Have you had to reseal the block at all since '96?
 12 A. We've painted the inside of it with Ulg masonry
 13 paint.
 14 Q. How do you spell that?
 15 A. It's U-L-G I think.
 16 Q. Do you know when you did that?
 17 A. Various stages, since '97 on, since we occupied
 18 the home.
 19 Q. Have you had any water come in through the block
 20 or the floor of the basement since you built the house?
 21 A. Through the block, minimal, in a few small spots.
 22 And that was properly taking care of.
 23 Q. By resealing it?
 24 A. Yes. By the use of a product called Quit Wall.
 25 It is fiberglass reinforced.

69

1 Q. What has been the range of the humidity that
 2 you've been able to identify?
 3 A. The range of humidity I've been able to identify,
 4 20 to about 34 percent.
 5 Q. And how have you measured that?
 6 A. With the Taylor Swing psychrometer.
 7 Q. Can you spell that for our court reporter.
 8 A. I don't know how to spell psychrometer.
 9 Q. Is it S-Y-C-H-R-O-M-E-T-E-R?
 10 A. No, it begins with a P.
 11 Q. I've seen the spelling, I just don't know --
 12 A. I don't remember that either.
 13 Q. Is that something that you purchased?
 14 A. Yes.
 15 Q. Have you noticed any drafts coming through or
 16 around any of the windows?
 17 A. No drafts.
 18 Q. None anywhere?
 19 A. No.
 20 Q. Have you checked for that?
 21 A. Yep.
 22 Q. How did you check for that?
 23 A. Basically, using a candle and bite-gauge paper --
 24 toilet paper, to see if it moves or napkins or something
 25 like that.

71

1 Q. When you say it was "minimal", how many areas did
 2 you notice that?
 3 A. Two.
 4 Q. What was the size?
 5 A. Approximately -- a crack in the block
 6 approximately three inches long.
 7 Q. That was due to settling of the home?
 8 A. Yeah.
 9 Q. Other than the cracks in the block, did you notice
 10 any water or staining of the block?
 11 A. No.
 12 Q. Other than the steps you identified as far as
 13 cleaning the windows, have you done anything to try to
 14 reduce or minimize condensation on the windows?
 15 A. We've tried to make our -- check our indoor
 16 humidity -- indoor air quality, I should say; humidity,
 17 temperature.
 18 Q. How often have you done that?
 19 A. Sporadically, off and on, throughout, you know,
 20 months.
 21 Q. Have you kept any record or log of that?
 22 A. No. We've never written it down. Tried to make
 23 sure we were within our tolerances and try to identify any
 24 other locations of water coming in, like basement, like you
 25 said, or anything like that, and none found.

70

1 Q. When would you have done that?
 2 A. Sporadically. No log kept of that either.
 3 Q. Other than propane and the occasional fire, do you
 4 use any other devices to heat your home?
 5 A. No, not safe.
 6 Q. Do you have an attic?
 7 A. No -- well, it's not a usable attic, I should say.
 8 Q. Crawl space?
 9 A. There's a crawl space up there.
 10 Q. How's that vented?
 11 A. How's that vented? Ventilated soffit and ridge
 12 vent.
 13 Q. How many ridge vents do you have?
 14 A. One great big one.
 15 Q. Where is that located?
 16 A. It runs the entire length of the roof,
 17 approximately 92 feet.
 18 Q. Have you used a hydrometer to measure humidity in
 19 your home, H-Y-D-R-O-M-E-T-E-R?
 20 A. No, I don't own one.
 21 Q. Have you ever had anyone come in the home and test
 22 humidity using such a device?
 23 A. Yes.
 24 Q. Who was that?
 25 A. A gentleman by the name of Tim Trampenau. He has

72

1 an electronic meter, I don't know if it was a hydrometer or
2 not.
3 Q. And Tim's last name is T-R-A-M-P-E-N-A-U?
4 A. Yes.
5 Q. Other than when Tim came to the home, have you
6 ever had anyone test for humidity in the home?
7 A. I think this gentleman here from Absolute did.
8 MR. FIFE: Mr. Kesler.
9 A. Mr. Kesler. I'm lousy with names, I'm sorry.
10 Q. That's all right.
11 A. But I don't think he documented it. I think he
12 just had some -- I've done it myself using the swinging
13 psychrometer and we do have an expensive Radio Shack
14 indoor/outdoor thermometer that has the humidity on it.
15 Q. Where do you keep that?
16 A. Sitting on the windowsill.
17 Q. Where?
18 A. Northwest window.
19 Q. Why that particular window?
20 A. That's where it got stuck.
21 Q. What does the humidity show through the indoor
22 thermometer?
23 A. It varies in between -- oh, gee, I don't remember
24 exact numbers, but I know that the machine does not read
25 correctly. So I really don't pay that much attention to it.

73

1 Q. You don't lower the temperature in the evenings or
2 on the weekends?
3 A. Yea. It's dropped in the evenings and when we're
4 not home to about 65.
5 Q. Do you have a manual temperature setting or a
6 digital?
7 A. Digital, programmable.
8 Q. Do you know what the hours or durations of the
9 program are?
10 A. That, I don't remember.
11 Q. Do you program it to go down at night or in the
12 evenings?
13 A. (Witness nods head.)
14 Q. And that's to what, 65?
15 A. About. That varies, we're getting older.
16 Q. Have you or any of your family members experienced
17 any health issues in your home since you moved in such as
18 allergies or things that you associate with temperature or
19 humidity?
20 A. About the only thing we have noticed is our
21 daughter did have bloody noses from being dried out when the
22 humidity got too low. Other than that, whether they had
23 allergies beforehand, they've still got them today.
24 Q. What did you do to address the humidity issue when
25 your daughter had a bloody nose?

75

1 Q. Now, these photographs that you've identified, are
2 they a condition that exists for a period of time, or are
3 you showing a condition that exists throughout the heating
4 season?
5 A. Petty much throughout the heating season.
6 Q. Do you know what causes the condensation that
7 you've observed to dissipate or go away, what conditions?
8 A. As far as I know, as far as to make it minimal, is
9 when it warms up -- when it's warmer outside the structure.
10 When the temperature outside the structure and the
11 temperature inside the structure are more even.
12 Q. So when the outside temperature warms up, the
13 condensation dissipates?
14 A. Correct.
15 Q. When the outside temperature drops, that's when
16 you see condensation appearing?
17 A. Correct.
18 Q. And you're saying it remains while the temperature
19 is cold or where there's a greater disparity between the
20 outside and the inside temperature?
21 A. Yes.
22 Q. In terms of your inside temperature, do you keep
23 the environment at a certain temperature or the thermostat
24 at a certain rating?
25 A. Pretty much between 68 and 72 degrees.

74

1 A. Took her to the nose doctor, put nose drops in,
2 and treated her.
3 Q. Did you adjust the humidity in the home at all?
4 A. Don't have a humidifier. Never installed one and
5 I don't like them, so I didn't put it in.
6 Q. When did she have this issue with her nose?
7 A. Throughout her childhood.
8 Q. Does she still have it from time to time?
9 A. Bloody noses from time to time. But I don't think
10 that's the issue of the humidity anymore, I think that's
11 just growing.
12 Q. How would you adjust humidity in your home?
13 A. As far as to increase it?
14 Q. Or to decrease it.
15 A. To decrease it, the dehumidifier and the
16 air-to-air heat exchanger.
17 Q. Can you adjust the heat exchanger to different
18 levels?
19 A. No, it's running full open. I need to do that
20 because the building is considered to be tight, so I do need
21 an air exchange.
22 Q. Why do you say the building is considered tight?
23 A. It's well-insulated.
24 Q. How much insulation do you have in the building?
25 A. What part?

76

1 Q. Why don't you describe your insulation in the
2 building so that I understand what you mean by it's
3 well-insulated.
4 A. Walls are six-inch construction. They're R19 in
5 the walls.
6 Q. R19?
7 A. R19, with another one and a half tacked up on the
8 outside, which is the backer board for the vinyl siding.
9 The roof line is basically two roof lines, one side being 36
10 feet square. It is double-rolled for a total of R44 and the
11 other one being 24x44, which is a vaulted ceiling and it has
12 R32 in it.
13 Q. Do you know what the rating is of the outside?
14 A. 1.5.
15 Q. Pardon?
16 A. 1.5. It's just the polystyrene backer board.
17 Q. And that's the thickness of it?
18 A. No. It's actually a quarter-inch thick. R rating
19 is 1.5.
20 Q. Any other insulation in your home?
21 A. The band is -- that band board, or rim board, some
22 people call it, is insulated.
23 Q. How about the floors?
24 A. The floor over the crawlspace is. And that's got
25 14 inches thick of insulation with a plastic vapor barrier.

77

1 windows; is that correct?
2 A. That is correct.
3 Q. The first one is for Thermo-Twin Windows dated
4 2/11/03.
5 A. Correct.
6 Q. That one identifies that you were looking to
7 replace 42 -- or install 42 double-insulated windows into 29
8 openings; does that appear to be correct?
9 A. 42 windows -- I don't see the 29 openings -- okay
10 29, there it is.
11 Q. Now, would this have involved replacing all of the
12 windows in your home or just part of them?
13 A. This would have been the 42 windows. How they do
14 their classification is they do it by panes of glass. So
15 I'm going to assume that there's 42 panes of glass in the
16 house off the top of my head. I didn't count them.
17 Q. Was this an estimate to replace all of the windows
18 in your home?
19 A. Yes.
20 Q. Including the basement windows?
21 A. I would have to say yes, because the basement
22 windows are awning windows.
23 Q. Why would the basement windows need to be
24 replaced?
25 A. Because they were the same manufacturer, they've

79

1 Q. That's in the floor you said.
2 A. That's in the floor, which is the last eight feet
3 of the 44 feet back where the fireplace is. Other than
4 that, the rest is full basement.
5 Q. Now, I understand you've had some people give you
6 estimates for replacement of the windows.
7 A. Correct.
8 Q. Can you tell me all the companies you've gone to
9 to replace -- or to get estimates to get replacements?
10 A. The wife would be better off with that information
11 than I would.
12 Q. Have you gotten a quote from Thermo-Twin Windows?
13 A. Yeah. I remember seeing that gentleman.
14 Q. Did you get a quote from Pella Windows?
15 A. I don't know if it was Pella, but I think it's a
16 gentleman that deals with Pella Windows. Yes.
17 (Glover Deposition Exhibit Nos. 3 and 4 marked for
18 identification.)
19 Q. I'm going to show you what we're going to mark as
20 Exhibit Nos. 3 and 4 and ask you to take a look at those.
21 A. (Witness complies.)
22 (Brief recess taken.)
23 BY MR. HABAS:
24 Q. Mr. Glover, I've put in front of you Exhibit Nos.
25 3 and 4. They appear to be estimates for replacement of the

78

1 got the same problem.
2 Q. Have you had condensation in the basement windows
3 as well?
4 A. Yes. As far as keeping track of that, we really
5 haven't.
6 Q. So you don't know whether it's been the same as
7 the windows on the first floor?
8 A. No. Off the top of my head, I couldn't tell you.
9 And these from Thermo-Twin Industries are what they call a
10 vinyl-clad window, which I didn't really want. I got wood
11 windows, I want wood windows. I like the looks of them.
12 Q. So just so we're clear, this was an estimate to
13 replace all of the windows in your home that you had
14 installed originally in 1996, except for the replacements in
15 '98?
16 A. Yeah -- well, no, all of them. Even the ones that
17 were replaced in '98, other than the front door, of course.
18 Q. What was the reason why you did not take the
19 Thermo-Twin estimate and go with that?
20 A. Because they were vinyl-clad windows and we had
21 wood-clad windows in the house.
22 Q. The second document, Exhibit No. 4, is an estimate
23 from Pella Windows dated 6/24/04; do you see that?
24 A. Uh-huh.
25 Q. You've got to say yes or no.

80

1 A. Yes, of course.
 2 Q. Why did you obtain this estimate?
 3 A. Just a different window manufacturer, getting
 4 different estimates, and these are for wood-clad windows, I
 5 do believe.
 6 Q. This document identifies a total of 30 window
 7 openings; do you see that?
 8 A. Yeah, I see it.
 9 Q. Can you explain why the Pella Window is for 30
 10 window openings and Thermo-Twin was for 29?
 11 A. That I couldn't -- unless somebody miscounted.
 12 Q. Again, would this be an estimate to replace all of
 13 your windows in your home, as well as the French door units?
 14 A. Yes. Yes, for the Pella one. That may be what
 15 the difference may be, I do not know.
 16 Q. Did the Thermo-Twin estimate also include the
 17 French doors, to your understanding?
 18 A. Yeah. It's says two Windsor French doors,
 19 loading.
 20 Q. Have you obtained any other estimates for the
 21 replacement of the windows other than these two?
 22 A. Not to my knowledge. I don't remember.
 23 Q. And am I correct that to date you have not
 24 replaced the windows, other than the ones in '98?
 25 A. No. I have not replaced any windows in the house

81

1 remember exactly what they are. I don't remember what
 2 Marvin's is either. I thought I was purchasing a rather
 3 well-insulated window when I purchased the Marvin ones.
 4 Q. Other than the estimate from Pella, did you
 5 receive any information about the type of windows that they
 6 were quoting on?
 7 A. No.
 8 Q. Were these Pella-brand windows that you were being
 9 quoted on or some other brand?
 10 A. Yes, Pella. That's what the gentleman represents.
 11 Q. Have you done any research or spoken to anyone
 12 about the Pella Windows as far as their qualities and their
 13 properties?
 14 A. Here and there, nothing formal.
 15 Q. Was there a particular reason why you got a quote
 16 from Pella as opposed to some other manufacturer?
 17 A. They're just a manufacturer that somebody
 18 recommended -- the gentleman, I should say, was recommended,
 19 not necessarily the window. But the man was knowledgeable
 20 of the products he sold.
 21 Q. Did you have any prior dealings or relationships
 22 with the Pella people?
 23 A. No.
 24 Q. What was the reason why you got an estimate in
 25 2004 for Pella at that particular time?

83

1 or doors.
 2 Q. Were you present when the person from Pella came
 3 to your home to take a look at your windows?
 4 A. Yes.
 5 Q. Did you have any discussion with them about the
 6 issues of condensation or water on the windows?
 7 A. Other than what causes it, that's it.
 8 Q. What was the discussion about what causes the
 9 condensation?
 10 A. Basically, a cold pane. In other words, the
 11 window has cooled enough to have condensation condensate on
 12 it.
 13 Q. Did a person from Pella provide you with any sort
 14 of either written or verbal information that you would not
 15 have condensation with windows that they were quoting you
 16 on?
 17 A. He said that their's doesn't do that. Other than
 18 that, I don't really remember the total conversation with
 19 the gentleman.
 20 Q. Well, wouldn't that have been an important issue
 21 to discuss?
 22 A. Basically, it was just the R factors and how their
 23 window was constructed.
 24 Q. And what did he tell you about the R factor?
 25 A. He stated to me what his R factors were, I don't

82

1 A. Just to get estimates on what it's going to cost
 2 us to replace the windows and the doors in the house to --
 3 Q. Would this include both the removal of the
 4 existing windows and replacement of new windows?
 5 A. Correct.
 6 Q. Can you purchase these windows and install them
 7 yourself?
 8 A. I probably could, but these are all custom sizes.
 9 Q. The original ones were custom sizes as well,
 10 right?
 11 A. No. They were standard Marvin sizes. Of course,
 12 every manufacturer makes their own size.
 13 Q. Did you install the custom Marvin windows in your
 14 home?
 15 A. Yes.
 16 Q. Do you have an estimate just for the cost of
 17 obtaining new windows separate and apart from installation?
 18 A. No.
 19 Q. Do you know what the windows from Pella cost,
 20 themselves, separate and apart from any installation costs?
 21 A. No.
 22 Q. Could you install new Pella windows or other
 23 manufacturers at your home?
 24 A. Why? I paid to have them installed once, why do I
 25 want to do it again.

84

1 Q. Do you know what it costs to have the Marvin
2 windows installed?
3 A. No, I don't.
4 Q. And that would have been any cost that you would
5 have paid Mike Paris, right?
6 A. Yeah. And I do believe that was all under the
7 table, shall we say. He was helping me out as best he
8 could.
9 Q. So these estimates reflect the full cost to
10 install new windows; would that be accurate?
11 A. To remove -- well, the Pella one would be to
12 remove the existing windows, of course, you have to remove
13 siding, install new windows, finish new windows, and put it
14 all back together.
15 Q. Including sealing and caulking and insulating?
16 A. Right.
17 Q. Has anyone told you that some of the windows that
18 you currently have in your home do not have to be replaced?
19 A. Nobody has said either/or, whether they need to be
20 replaced or not. This would be more of a preference to us
21 due to the fact that we believe that our issue is with the
22 windows and doors, not with the house.
23 Q. In obtaining the estimates from Pella and
24 Thermo-Twin, those were estimates you were obtaining for
25 yourself as opposed to somebody directing you that you

85

1 Q. And that's an all-wood assembly, as far as you
2 understand -- all-wood framing.
3 A. Well, yeah, on the inside, yes. I think the
4 outside of the Pellas are vinyl.
5 Q. And that would be true of the Thermo-Twin as well,
6 the outside would be vinyl.
7 A. That's pretty much standard.
8 Q. The only difference is the inside would be vinyl
9 on the Thermo-Twin?
10 A. Yes.
11 Q. Have you ever had any water actually enter in your
12 windows as a result of rain or snow that you observed?
13 A. No.
14 Q. Other than the infrared testing of the windows,
15 have you had any other testing of the windows or the
16 casings, themselves?
17 A. We had a gentleman come in from Solid Rock
18 Consulting.
19 Q. And what did he do?
20 A. Just verified that the windows were installed
21 correctly into the building, as well as the building is of
22 current and modern construction codes.
23 Q. Do you know how he verified the installation of
24 the windows?
25 A. Visually.

87

1 definitely have to do this?
2 A. Correct, we did it on our own.
3 Q. Have you had to make any other repairs to your
4 home since you moved in '96?
5 A. Nope.
6 Q. Just so I'm clear, the difference between the two
7 estimates is one is vinyl clad and one is wood clad?
8 A. One is for complete -- well, one is for complete
9 replacement of the windows, the other one is for replacement
10 of the window panes individually. And, yes, one being wood
11 clad and one being vinyl.
12 Q. I'm not sure I understand the difference.
13 A. The interior side of your window, there's vinyl
14 cladding. In other words, what you're looking at is holding
15 the window glass, itself, is vinyl or finished wood.
16 Currently, we own finished wood. To go down to vinyl would
17 be like taking your Cadillac and coming out of the
18 dealership with a Yugo. You paid for a Cadillac and you got
19 a Yugo, are going to be happy?
20 Q. The question is on the estimates, both of them
21 involve complete replacement of the windows --
22 A. No. Thermo-Twin reuses the current framing that
23 is in the building.
24 Q. And the Pella takes out the entire frame?
25 A. Right, and puts in the whole new assembly.

86

1 Q. Did he take any out?
2 A. No. He did not remove any from the building.
3 Q. Did perform any test where you used any equipment?
4 A. No.
5 Q. Just a visual inspection?
6 A. Just a visual inspection.
7 Q. Now, at one point earlier you had mentioned
8 mildew; are you making any claim for mildew-related damage
9 to your home?
10 A. To the home or to the windows?
11 Q. To the windows -- the home generally, but the
12 windows in particular.
13 A. Yes. For the windows, yes, as well as the problem
14 with the condensation. As far as the home, no, we don't
15 have that big of an issue with mildew.
16 Q. Where do you have mildew in the windows?
17 A. Around the outside of the frame -- or the pane, I
18 should say.
19 Q. Can you look at some photographs and show me what
20 particular areas that you've identified mildew?
21 A. (Witness complies.) I'll just grab one right off
22 the top, a couple of them.
23 Q. You're showing me one the photographs with a date
24 of 4/25/02; can you show me without writing on the
25 photograph the area that you're referring to.

88

1 A. See the black along the wood here.
 2 Q. This is this bottom pane of the wood?
 3 A. That's the cladding that's attached to the window.
 4 Q. This is the bottom part of the window as opposed
 5 to the side or the top.
 6 A. Here's up the side, and in the corner there's
 7 actually a 45-degree cut in the wood.
 8 Q. And you're referring to a photograph dated
 9 11/4/04.
 10 A. It goes up the side.
 11 Q. And you're demonstrating areas of black that are
 12 on the wood cladding, right?
 13 A. That is correct. I mean, you can see it here.
 14 And just about -- almost every photo that you look at --
 15 here's one that looks nice and bright right here.
 16 Q. You're referring to a photograph dated 3/27/02.
 17 A. And you can see the black all the way around.
 18 Q. And you're pointing at the seams between different
 19 layers of the wood on the cladding.
 20 A. What it is, is this is actually one whole piece of
 21 wood, and it's just been machined for the roundness on it.
 22 But you can see where it's down into the saw cut here and
 23 all the way around. And just about any photo that you look
 24 at that you actually see the wood.
 25 Q. Have you treated or tried to remove the mildew

89

1 black is, is mold.
 2 Q. I'm not an expert on mold, but I understand it's a
 3 more severe form of mildew.
 4 A. Basically, that's what I understand, I'm not an
 5 expert either.
 6 Q. You had any mold or mediation in your home?
 7 A. No.
 8 Q. Have you called anyone out to look at the mold?
 9 A. No. We don't have that big of an issue in the
 10 house, as far as the general house. We keep it clean. We
 11 are running an ionizer in the basement in the store room to
 12 help alleviate any problems there, which we don't really
 13 have a major problem -- just keep it in check.
 14 Q. When did you install the ionizer?
 15 A. A couple of years back.
 16 Q. What was the --
 17 A. The exact day, I don't remember.
 18 Q. Why did you install an ionizer?
 19 A. Preventative maintenance, basically.
 20 Q. Did you do that because of condensation or mildew
 21 issues?
 22 A. No, preventative maintenance. And we also run
 23 what's called a UV light. And actually the manufacturer is
 24 Field Systems and it's UV Air is the brand name, which is an
 25 ultraviolet light that goes -- runs from the duct work, from

91

1 areas that you've identified?
 2 A. Yes.
 3 Q. How have you done that?
 4 A. Basically, cleaning them with Windex and stuff
 5 like that. We don't use anything aggressive on it. We
 6 thought about even using mineral spirits, but that's going
 7 to take the finish off so we never used anything like that.
 8 Q. Any bleach?
 9 A. No, of course not. Bleach and wood don't get
 10 along.
 11 Q. Have you scraped or tried to sand any of that off?
 12 A. No, because that would just ruin the finish that's
 13 on the windows as well as damage the wood, of course.
 14 Q. Has the mildew caused any of the wood pieces to
 15 break off or come apart?
 16 A. They have not broken off or come apart to date.
 17 Q. Have you had any mildew on the French doors?
 18 A. Yes.
 19 Q. How about the basement windows?
 20 A. Yes.
 21 Q. Same areas?
 22 A. Same areas.
 23 Q. What about mold? Have you discovered any mold as
 24 a result of any water condensation?
 25 A. All the windows, yes. That's actually what that

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1 the furnace, to the central heating, air conditioning system
 2 that basically kills any mold spores, whatever, that goes
 3 through the air stream. And that's for allergies.
 4 Q. Have you ever spoken to anyone from Marvin with
 5 regard to these windows or the issues that you've
 6 identified?
 7 A. The wife did most of the correspondence with
 8 Marvin. I may have, but I don't remember, it's been a long
 9 time.
 10 Q. Your attorney has provided us with some names, and
 11 I didn't know if it was you or your wife who would have had
 12 any conversations with them.
 13 A. Wife, mainly.
 14 Q. Okay. Has she been the person who would have sent
 15 the e-mails that have been identified as well?
 16 A. Yes.
 17 Q. You mentioned a gentleman by the name of Butch
 18 Taylor from Pella Windows; do you recall that name?
 19 A. I don't. It's probably somebody the wife -- was
 20 referred to the wife through the real estate agency that she
 21 works.
 22 Q. Did Mike Paris perform work at Better Home
 23 Construction?
 24 A. No, that was the contractor that did the basement.
 25 Q. When you purchased these Integrity windows, on

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1 what basis did you purchase them? What made you decide to
 2 purchase these windows as opposed to others?
 3 A. Insulation factor. I don't remember exactly what
 4 their R value was supposed to be. Argon film, low E gas,
 5 low emission, is what, I do believe, it stands for. Also,
 6 they also had the UV filter on them, which filters out the
 7 ultraviolet light so it doesn't fade furniture and stuff
 8 like that. I don't know if you noticed, the house does have
 9 the lot of glass in the one area.
 10 Q. Did you do any research, yourself, in order to
 11 identify these conditions with the Marvin windows?
 12 A. No. I believed what I was handed. I have the --
 13 we have the original sales brochure from when we picked out
 14 the windows.
 15 Q. Would that have been given to you by Loc?
 16 A. Yes.
 17 Q. Did they select the type of windows or did they
 18 give choices and you selected the window?
 19 A. I basically told them what I wanted was a good,
 20 low maintenance window. I had some experience with some
 21 other cheaper brands that I didn't even want to consider,
 22 and this is what they came up with. They said these were
 23 their top-of-the-line windows that they handled.
 24 Q. Did they give you a choice or was it their
 25 recommendation to go with the Marvin windows?

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1 Q. Did you look through that and study that before
 2 deciding what windows to go with?
 3 A. Yes.
 4 Q. Was there anything in that particular brochure
 5 that was important in your decision?
 6 A. It looked to be a good construction, you know, a
 7 quality unit. They had -- they carried the design that I
 8 cared for, you know, the awning, what they call, casement
 9 windows. We didn't want double hungs. Of course, like I
 10 said before, the brochures and their sales literature.
 11 Q. Anything else that you relied on in making that
 12 decision?
 13 A. Basically, from what I read and stuff like that,
 14 it seemed to be a very good window design. Seems to be
 15 sturdy, had a good warrantee, the whole nine yards, it
 16 seemed to be a very good investment at the time.
 17 Q. And in making the decision to use these particular
 18 windows, you didn't have any direct communication with
 19 anyone at Marvin, right?
 20 A. No.
 21 Q. Now, in your Complaint that was file in this case,
 22 the statement is made that one of the issues that you have
 23 with the windows is that it has defects which allow
 24 excessive heat transfer; tell me what you mean by that.
 25 A. What it is, it seems to me -- now, like I said,

95

1 A. They gave us a choice, but I don't remember what
 2 they were.
 3 Q. Did you get literature from other brands?
 4 A. I don't really remember. And if I did, we don't
 5 have it. We didn't even consider it or whatever.
 6 Q. Did you rely on what Loc suggested in order to
 7 make the choice?
 8 A. Yes. They were more knowledgeable of the products
 9 that they sold.
 10 Q. As you said, you weren't in that business so you
 11 didn't really know that difference; is that right?
 12 A. That is correct.
 13 Q. You said you had some experience with some cheaper
 14 brands; what were you referring to?
 15 A. They don't make them anymore, Winco or something
 16 like that. From doing remodelling work at our old
 17 residence --
 18 Q. Before choosing -- or strike that. I think you
 19 said that Loc made the recommendation of Marvin Windows to
 20 you; is that right?
 21 A. (Witness nods head.) Yes.
 22 Q. Did you obtain any literature from Loc about the
 23 windows before making the decision?
 24 A. Just their one sales brochure, which we have a
 25 copy of.

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1 I'm no expert, but through my job and my training, I learned
 2 about heat transfer and the way it's transferred.
 3 What I have is a fiberglass outer shell that is
 4 glued to a piece of glass, which is glued to an aluminum
 5 track, which is glued to another piece of glass, which is
 6 glued to a piece of wood is how the window is comprised.
 7 Aluminum conducts heat transfer by contact, so does the
 8 glass, so does fiberglass.
 9 So basically what I got is I got a solid piece of
 10 material that is extremely cold -- it is cold on one side
 11 and warm on the other, and there's no insulation value there
 12 through that aluminum spacer. The new windows today have
 13 what's called warm-edge technology, which is no longer an
 14 aluminum spacer, which is a piece of foam spacer. And foam
 15 does not conduct as much heat transfer through it. That's
 16 why I'm getting condensation around the outside of each
 17 window, not the whole glass.
 18 Q. That's your understanding of --
 19 A. That's my understanding of how I'm losing my heat.
 20 Q. And did you obtain that understanding from anyone
 21 besides your own experience?
 22 A. Basically, what's written in books on how the heat
 23 transfers and what I've been trained to do for a living.
 24 Q. Has your knowledge from books come about as a
 25 result of this lawsuit, or as a result of your concern with

96

1 these windows, or through your experience in the trade?
 2 A. Through my experience in the trade.
 3 Q. Have you had anyone appraise your home for its
 4 value?
 5 A. Several different times.
 6 Q. What was the most recent time?
 7 A. Date, I don't remember; when we did our
 8 refinancing.
 9 Q. How long ago was that?
 10 A. You'd have to ask the wife.
 11 Q. In the last couple of years?
 12 A. Within the last couple, two or three years or so.
 13 I don't remember the exact date, the wife would be able to
 14 tell you.
 15 Q. When you refinanced the home, did you get an
 16 estimate of the value of the home?
 17 A. She'd be able to tell you.
 18 Q. Are you aware of anyone who said that the value of
 19 your home has decreased or not increased as a result of the
 20 issues that you have with the windows?
 21 A. I don't think it's really all that publicly known
 22 the issues that we have with our windows. I mean, we don't
 23 run around telling everybody that we see. There's a few
 24 people that know about them.
 25 Q. Have you attempted to sell your home?

97

1 A. Like it's been compressed pretty thinly.
 2 Q. You're making that assessment based upon the width
 3 of it?
 4 A. Thickness, depth.
 5 Q. Thickness --
 6 A. Thickness, depth would be it. I do not know what
 7 the industry standards are personally, just an observation.
 8 Q. Has anyone evaluated the R factor for the windows
 9 that you're aware of?
 10 A. No, other than what's stated that Marvin implies
 11 what their R value is.
 12 Q. And I think you said earlier that there was no air
 13 leakage around the glass.
 14 A. None that we could find.
 15 Q. Did anyone look for that?
 16 A. Yes. Like I said, by using a candle or looking
 17 for a draft that way to see if the flame moves.
 18 Q. Did Mr. Davis or anyone who's taken a look at
 19 these windows ever identify the air leakage around the
 20 glass?
 21 A. Most of them have not looked at the windows, per
 22 se. When I had people come in to inspect certain things of
 23 the home, it was just that part. In other words, they
 24 identified that the house is not the issue, it has to be
 25 something else.

99

1 A. No.
 2 Q. You have not listed it with any realtor?
 3 A. No.
 4 Q. Now, you've also made the statement that there are
 5 lower amounts of sealant between the outside frame and
 6 glass, aluminum spacer, and glass indoor wood cladding; does
 7 that sound familiar?
 8 A. Yeah. That's what Mr. Davis and I concluded by
 9 taking the one unit apart. Now, whether how much, I do not
 10 know, that's what Mr. Davis does for a living.
 11 Q. So that is his conclusion?
 12 A. Yeah. It seemed to be thin.
 13 Q. What seemed to be thin?
 14 A. The amount of sealant.
 15 Q. In what location?
 16 A. In between the glass and the pane -- or the glass
 17 and the cladding, both sides.
 18 Q. What do you mean by that?
 19 A. Outdoor cladding -- outside cladding, which is, on
 20 the Marvin windows, fiberglass, and your normal wood
 21 cladding.
 22 Q. What kind of sealant were you looking at when you
 23 observed that?
 24 A. To me, it looked like a neoprene rubber caulk.
 25 Q. When you say "thin", what do you mean by thin?

98

1 Q. Has anyone looked at the issue of air leakage
 2 around the glass?
 3 A. No, other than myself and my wife. Mr. Davis'
 4 findings are of his own, he knows windows more than I do.
 5 Q. You are NATE certified.
 6 A. Yes.
 7 Q. What does that stand for.
 8 A. NATE stands for North American Training
 9 Excellence.
 10 Q. And that's in the field of HVAC.
 11 A. Yes. That is actually through what is called
 12 RSCS, Refrigeration -- it's Refrigeration Engineer Society
 13 (sic). It's what governs refrigeration work, heating, air
 14 conditioning.
 15 Q. Do you recall that you and your wife communicated
 16 with the Better Business Bureau about these windows?
 17 A. The wife mainly, yes.
 18 Q. In one of your communications you wrote that, "The
 19 windows lose so much that you can see the rings around the
 20 windowsill"; do you recall that statement?
 21 A. I don't, the wife may. Rings around the
 22 windowsill.
 23 Q. Did you ever see anything like that?
 24 A. I don't know what she's referring to there, it's
 25 been a while. We've actually had ice formation on the

100

1 inside of the glass, that's telling me that the inside of
 2 the glass is below 32 degrees Farenheit.
 3 Q. On how many occasions did you see that?
 4 A. Never really kept track.
 5 Q. More than once?
 6 A. More than once. And I don't know what the outside
 7 air temperature would have been.
 8 Q. Is that any particular window?
 9 A. Here, there, or sporadic, we really didn't keep
 10 track. We've seen it on more than one, let's put it that
 11 way. Which ones exactly at what time, I don't remember.
 12 Q. And you don't know the conditions that caused
 13 that?
 14 A. No. I don't know what the outside is, I know it
 15 was in heating season. Inside the house would be probably
 16 approximately around 70 degrees.
 17 Q. What area of the window?
 18 A. Bottom corner if memory serves me correctly.
 19 Q. Both sides or one side?
 20 A. That, I couldn't tell you. It's actually in the
 21 photographs in some of them -- not either one of those. I
 22 have these things all mixed up. You can actually see it
 23 here; you can see it here, those are probably all the same
 24 pictures; and you can see it here.
 25 Q. And you're pointing to three pictures dated

101

1 the windowsill; do you know what that means?
 2 A. I have no idea.
 3 (Glover Deposition Exhibit No. 5 marked for
 4 identification.)
 5 Q. And just so I'm clear, I'm going to show you what
 6 we've marked as Exhibit No. 5, which is a letter dated
 7 May 7, 2003 written by you and your wife to the Better
 8 Business Bureau in Minnesota. And you'll see in the third
 9 paragraph, the third line, the reference to rings around the
 10 window.
 11 A. (Witness reviews document.) Rings around the
 12 windowsill.
 13 Q. Do you see that reference?
 14 A. Unless the reference is referring to it as the
 15 wife worded it, as the condensation around the window pane,
 16 that would be my only assumption.
 17 Q. That would be your understanding?
 18 A. Yeah. Because the sill is actually the whole
 19 unit. I'm technical, she's time and date.
 20 Q. You'll see the beginning of that same paragraph
 21 that says we have spoken to numerous experts in the window
 22 industry; do you see that?
 23 A. Uh-huh.
 24 Q. You have to say yes or no.
 25 A. Yes.

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1 March 3, '03, correct?
 2 A. Yes.
 3 Q. And you're pointing to a left lower corner of one
 4 of the windows?
 5 A. Actually, there, there, and there.
 6 Q. And that appears to be, according to you, ice
 7 buildup?
 8 A. Yes. That's exactly what that is, is ice.
 9 Q. You're saying that was not on the inside, but that
 10 was between the panes of glass?
 11 A. No. That is on the inside of the glass.
 12 Q. And just to be clear, when you're saying inside,
 13 you're not talking about between the panes of glass, but on
 14 the inside surface of the home?
 15 A. That is correct.
 16 Q. Okay.
 17 A. Not between the glass, but the inside surface of
 18 the home. By the looks of it, it looks like these pictures
 19 are actually a progression I'd have to say. There's a lower
 20 amount there -- they're all the same date. That looks to be
 21 a larger amount, that looks to be a larger amount as it grew
 22 in.
 23 Actually, you can even see it right here in the
 24 wood where the wood has actually gotten frozen.
 25 Q. Just so I'm clear, have you ever seen rings around

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1 Q. Do you know what that refers to?
 2 A. We were just speaking about other window
 3 manufacturers.
 4 Q. Who would that be?
 5 A. Pella, Thermo-Twin, people at home shows. Yeah,
 6 it's right here, extreme conditions, humidity 60 percent --
 7 those don't, these ones do. Most of the manufacturers for
 8 competitor windows for -- Marvin's competitors we've spoken
 9 to state their products, they don't state what's wrong with
 10 our product.
 11 Q. Well, if you look at the third paragraph, the
 12 first line, it says, "We've spoke with numerous experts in
 13 the window industry and they have confirmed that they never
 14 seen any windows that were so bad." Do you see that
 15 statement?
 16 A. Uh-huh.
 17 Q. You've got to say yes or no.
 18 A. Yes, I'm sorry.
 19 Q. Who in particular said that to you?
 20 A. I don't remember which one who actually said that
 21 one to us.
 22 Q. Your recollection is these companies talked about
 23 their windows as opposed to talking down Marvin.
 24 A. Correct.
 25 Q. I'm almost finished, give me a minute.

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1 A. Certainly.
 2 Q. Have you or your wife had to spend any money on
 3 your own to address the issues that you've had with the
 4 windows?
 5 A. As far as --
 6 Q. For any reason.
 7 A. Any monies of our own, well, of course, buying
 8 supplies to keep them clean, testing of our home to verify
 9 that it is not a building problem or an indoor air-quality
 10 problem.
 11 Q. By testing of your home, what are you referring
 12 to?
 13 A. Mr. Davis, Solid Rock. I mean just about anything
 14 you've seen produced, the infrared study. We spent our
 15 monies on all of that.
 16 Q. Do you have any idea of how much money you've
 17 spent on those?
 18 A. No, I have no idea. I wouldn't even venture a
 19 guess.
 20 Q. Other than the instructions that you received for
 21 the windows, have you received any other written
 22 instructions for the installation or maintenance of the
 23 Marvin windows?
 24 A. No. Their instructions are quite forthcoming and
 25 seemed to be rather complete, you know, what care or the use

105

1 Q. And your assessment is that this is due to
 2 excessive heat transfer?
 3 A. Heat loss, heat transfer, yes.
 4 Q. And you focused on the aluminum portion of the
 5 windows as being the main culprit?
 6 A. Either that or it's the casing, what they call the
 7 cladding -- I shouldn't say casing because that's the whole
 8 window; the cladding. Because it seems to be --
 9 Q. The wood cladding.
 10 A. Wood and outdoor cladding. Because it's actually
 11 two components, there's an indoor and outdoor. It seems to
 12 be the glass where we get the condensation. It's just
 13 around the outside of the glass, around the cladding, and
 14 that's right where the spacer is, and that's how the unit is
 15 made.
 16 Q. So your thought is it's either the aluminum spacer
 17 or the cladding indoor or outdoor.
 18 A. Yeah. It's somewhere there. I'm not expert, I
 19 cannot point to one and say that's it.
 20 Q. Which one is Mr. Davis pointing to?
 21 A. He was assuming that -- as far as what I can
 22 remember in his letter, was the -- would have been an air
 23 leakage around the glass, in between the cladding and the
 24 glass.
 25 Q. But you couldn't identify any air leakage.

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1 of their product.
 2 Q. I'm going to show you, without marking, a copy of
 3 the installation instructions that we got from your
 4 attorney; would that be the instructions you're referring
 5 to?
 6 A. Yes. We have many copies.
 7 Q. I just wanted to be sure that was the correct one.
 8 You mentioned Solid Rock Consulting; is the person you dealt
 9 with there Jeffrey Holes, H-O-L-E-S?
 10 A. Correct.
 11 Q. Do you remember how many times he came to your
 12 home to look at the windows?
 13 A. Once, I do believe. I'm not for sure, but once.
 14 Q. And why is it that you've had these people come
 15 out to your home?
 16 A. Well, obviously, we have an issue that's going on.
 17 To identify what I can control and take care of, a.e.,
 18 building, that if that's that problem or the problem lies
 19 with the windows. I'm not going to make anybody point at
 20 the windows and say that's bad, because I'm not a window
 21 expert.
 22 Indoor-air quality, I understand; construction of
 23 the home, I understand; water seeping into the home, I
 24 understand. We have eliminated all of those. There's only
 25 one issue left, the windows.

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1 A. I could not identify any. And it seems to me if
 2 that was a problem -- an issue where the sealant went bad,
 3 we'd be able to find it. Other than poking at them now and
 4 again, I haven't found anything.
 5 Q. Did he do any tests to identify any air leakage?
 6 A. No.
 7 MR. HABAS: That's all the questions I have for
 8 you.
 9
 10 CROSS-EXAMINATION
 11 BY MR. FIFE:
 12
 13 Q. When you were selecting or going to purchase these
 14 windows, you said you talked with some representatives from
 15 Marvin regarding those.
 16 A. Just the people at Loc, yes.
 17 Q. And you indicated they made some representations,
 18 I believe, for Superior windows.
 19 A. Yes.
 20 MR. HABAS: You mean the people from Loc did, is
 21 what you're saying?
 22 MR. FIFE: Whoever he was speaking to with regards
 23 to these windows.
 24 Q. They made representations that these were --
 25 A. That these were top of the line, extremely good

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1 grade of windows.
2 Q. And was it those type of representations that made
3 you purchase these windows versus other windows?
4 A. The window would actually suit our needs, had a
5 very good name for itself, and a really good product, yeah,
6 that's basically why I chose their windows.
7 Q. When you were talking to Loc, what was your
8 understanding as to their relationship with Marvin?
9 A. Not any more than being a supplier and having
10 knowledge of their products.
11 MR. FIFE: Okay. That's all the questions I have.
12 MR. HABAS: I have no further questions. You have
13 the opportunity to read the transcript when it is
14 finished, when she types it up for you. Or you
15 can waive that right, that's something that you
16 may want to discuss with your attorney.
17 THE WITNESS: I'll discuss it with him and --
18 MR. FIFE: Well, if you read it, she'll send us a
19 copy whenever, you'll have 30 days to go through
20 it and make your changes. You can't change your
21 testimony, you're only going to be able to change
22 spellings maybe. So it's entirely up to you.
23 It's really only your -- you're only
24 verifying your address and stuff, what she's typed
25 down that you said today. I'm pretty comfortable

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1 with what you said.
2 THE WITNESS: I'll waive.
3 (Deposition concluded at 12:05 p.m.)
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C E R T I F I C A T I O N

I, Sonya Hoffman, a Court Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania, do hereby certify that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-captioned matter.

Sonya Hoffman
Court Reporter and Notary Public

Dated: *June 15, 2005*

